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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,139	07/11/2003	Takafumi Suzuki	040894-5941	1415
9629 7590 03/12/2007 MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004			EXAMINER PILKINGTON, JAMES	
			ART UNIT	PAPER NUMBER
			3682	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/12/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/617,139		SUZUKI, TAKAFUMI	
	<b>Examiner</b>		<b>Art Unit</b>	
	James Pilkington		3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

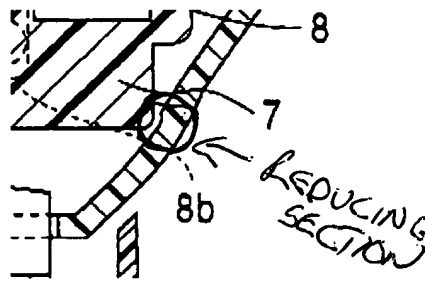
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi, USP 6,194,676.

Re clm 1, Takahashi discloses a lever apparatus comprising:

- A lever (3);
- A cover part (attached to 3) disposed on a base end portion of the lever (3), which includes a spherical-shaped outer surface and a thickness-reducing recessed portion formed on an inner surface side thereof (see Figure below);
- A mounting part (7) fixedly projecting from the inner surface of the cover part;
- A pair of fitting recessed portions (7a) formed in opposed side portions of the mounting part (7) outside of the cover part (attached to 3)
- A pair of shaft portions (8b)
- a lever support structure (8) including the pair of shaft portions (8b) with which the pair of fitting recessed portions are respectively rotatably fitted.



From Figure 3 of Takahashi

Re clm 2, a pair of openings (7a) respectively formed in peripheries of associated shaft portions. Character 7a is a recess designed to house character 8b see C7-8.

Re clm 3, an inserting opening (in between 8e and 8d, see Figure 3) to which the mounting part (7) is inserted is formed in the lever support portion (8), and the pair of shaft portions project toward the inserting opening (8b).

Re clm 4, the lever support portion (8) is configured such that when the mounting part (7) is inserted into the lever support portion (8), the pair of shaft portions (8b) abut the mounting part (7) and wherein the shaft portions (8b) are able to be elastically deformed.

### ***Response to Arguments***

3. Applicant's arguments filed in the after final amendment dated 2/22/07 have been fully considered but they are not persuasive.

4. Applicant argues that Takahashi does not disclose that the recessed portions are outside of the cover part.

The examiner argues that Takahashi does indeed disclose that the recessed portions are outside of the cover part as claimed. The claim reads "a pair of fitting

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recessed portions formed in opposed sides portions of the mounting part outside of the cover part. As the claim reads that the recessed portions are formed outside of the cover part Takahashi does indeed disclose this as Takahashi recessed portions are formed on a separate part from the cover part. Since the recesses are formed on a separate part they are formed outside of the cover part as claimed.

5. Applicant argues that Takahashi does not facilitate a lever that is easy to manufacture (page 5 lines 4-11).

The lever of Takahashi is indeed more complex to manufacture. However, in an apparatus claim how a device is manufactured does not determine patentability. What determines patentability in an apparatus claim is the structure of the device, as currently claimed Takahashi discloses all of the claimed structural limitations.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kontani, USP 6,33,475 that is cited in the US Form 892 dated 11/24/06, shows a recess portion 2b located outside of the cover part.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Pilkington whose telephone number is (571) 272-5052. The examiner can normally be reached on Monday-Friday 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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3/8/07

  
RICHARD RIDLEY  
SUPERVISORY PATENT EXAMINER